

## REMARKS

The present amendment is submitted in response to the Office Action dated April 27, 2007, which set a three-month period for response, making this amendment due by July 27, 2007.

Claims 1-2 are pending in this application.

In the Office Action, claim 1 was rejected under 35 U.S.C. 102(e) as being anticipated by EP1 035 328 to Berthon. Claim 2 was rejected under 35 U.S.C. 103(a) as being unpatentable over Berthon in view of U.S. Patent No. 3,079,524 to Gibson et al.

In the present amendment, claim 1 has been amended to define more clearly over the cited reference to Berthon by adding the features of claim 3, which was canceled.

The Applicants respectfully submit that Berthon does not disclose or suggest the specific arrangement of the sensors between the first and second terminal clamps and between the second and third terminal clamps, respectively.

Indeed, in the outstanding Office Action, **no** specific grounds for rejection of claim 3 have been set forth. While the Examiner notes on page 4, before the conclusion, only that Berthon discloses “an electrical motor that includes a first terminal clamp...”, no specific reference is made to where in this reference, other than to Berthon’s Fig. 2, these features are disclosed.

However, Fig. 2, as best understood, shows temperature sensors 6, 7, which clearly are **not** placed between first and second terminal clamps and between second and third terminal clamps, as required by original claim 3.

Therefore, claim 1 as amended by inclusion of the features of claim 3 should be patentable over the art of record, since neither Berthon nor Gibson discloses or suggests the specific placement of two sensors as defined in amended claim 1. It is respectfully submitted that since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a prima facie case of obviousness as clearly set forth in MPEP section 2143.01. When establishing obviousness under Section 103, it is not pertinent whether the prior art device possess the functional characteristics of the claimed invention, if the reference does not describe or suggest its structure. *In re Mills*, 16 USPQ 2d 1430, 1432-33 (Fed. Cir. 1990).

For the reasons set forth above, the Applicants respectfully submit that claims 1-2 are patentable over the cited art. The Applicants further request withdrawal of the rejections and reconsideration of the claims as herein amended.

In light of the foregoing amendments and arguments in support of patentability, the Applicants respectfully submit that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss

appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,

**/ Michael J. Striker /**

Michael J. Striker  
Attorney for Applicant  
Reg. No.: 27233  
103 East Neck Road  
Huntington, New York 11743  
631-549-4700